

From: Ohio, FW3 <ohio@fws.gov>

Sent: Thursday, April 16, 2020 9:29 AM

To: Mike Johnson <mjohnson@summitmetroparks.org>

Cc: nathan.reardon@dnr.state.oh.us; kate.parsons@dnr.state.oh.us; Boyer, Angela <angela_boyer@fws.gov>

Subject: Free the Falls, Gorge Dam in Cuyahoga River, Summit County Ohio



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2020-TA-1166

Dear Mr. Johnson,

We have received your recent correspondence requesting information about the subject proposal. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. The following comments and recommendations will assist you in fulfilling the requirements for consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA).

The U.S. Fish and Wildlife Service (Service) recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat (e.g., forests, streams, wetlands). Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. All disturbed areas should be mulched and revegetated with native plant species. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

FEDERALLY LISTED SPECIES COMMENTS: All projects in the State of Ohio lie within the range of the federally endangered **Indiana bat** (*Myotis sodalis*) and the federally threatened **northern long-eared bat** (*Myotis septentrionalis*). In Ohio, presence of the Indiana bat and northern long-eared bat is assumed wherever suitable habitat occurs unless a presence/absence survey has been performed to document absence. Suitable summer habitat for Indiana bats and northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with

variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat. Northern long-eared bats have also been observed roosting in human-made structures, such as buildings, barns, bridges, and bat houses; therefore, these structures should also be considered potential summer habitat. In the winter, Indiana bats and northern long-eared bats hibernate in caves and abandoned mines.

Female Indiana bats exhibit strong site fidelity to summer roosting and foraging areas, meaning that they return to the same area, and often the same trees, to roost, year after year. Because the project will result in a large amount of forest clearing relative to the available habitat in the immediately surrounding area, habitat removal could result in significant impacts to Indiana bats. Because of this, the proposed project may result in indirect adverse effects to Indiana bats, even if tree clearing is conducted during the winter season when Indiana bats are not present. **Therefore, we recommend that a summer survey be conducted to determine presence or probable absence of Indiana bats at the project site.** The summer survey must be conducted by an approved surveyor (list attached) and be designed and conducted in coordination with the Endangered Species Coordinator for this office. In Ohio, summer mist net surveys must be conducted between June 1 and August 15. We recommend that any Indiana bats and northern long-eared bats captured, especially reproductively active females and juveniles, be monitored through radio-tracking to determine roost locations.

If any caves or abandoned mines may be disturbed, further coordination with this office is requested to determine if fall or spring portal surveys are also warranted. Portal surveys must be conducted by an approved surveyor and be designed and conducted in coordination with the Endangered Species Coordinator for this office.

Survey results should be coordinated with this office prior to initiation of any work. Based on the results of the survey(s), we will evaluate potential impacts to the Indiana bat from the proposed project. If a summer survey documents probable absence of Indiana bats, the 4(d) rule for the northern long-eared bat could be applied (see <http://www.fws.gov/midwest/endangered/mammals/nleeb/index.html>).

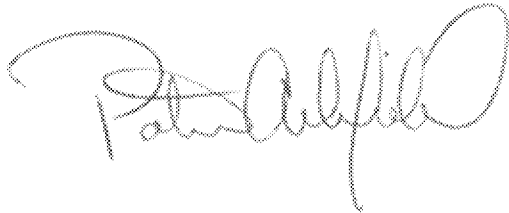
If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing should occur on any portion of the project area until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. We recommend that the federal action agency submit a determination of effects to this office, relative to the Indiana bat and northern long-eared bat, for our review and concurrence.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the ESA, and are consistent with the intent of the National Environmental Policy Act of 1969 and the Service's Mitigation Policy. This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species and/or state lands. Contact Mike Pettegrew, Acting Environmental Services Administrator, at (614) 265-6387 or at mike.pettegrew@dnr.state.oh.us.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrice Ashfield". The signature is written in dark ink on a white background.

Patrice Ashfield

Ohio Field Office Supervisor

cc: Nathan Reardon, ODNR-DOW

Kate Parsons, ODNR-DOW